

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

SAMUEL E. TOOTLE, II

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:16cv252-LG-RHW

BABUL C. DEBNATH, et al.

DEFENDANTS

REPORT AND RECOMMENDATION

Before the Court are [16] and [17] the *pro se* Plaintiff's motions for leave to proceed *in forma pauperis* (IFP) in this lawsuit which he filed in this Court on July 7, 2016. For the reasons which follow, the undersigned recommends the motions be denied.

As average monthly income, Plaintiff states he receives \$919.64 from some unspecified source, and that his spouse receives \$786.01 retirement, for a total household income of \$1705.65 per month. Plaintiff lists his other assets as \$6019.79 cash, \$6019.79 in a checking/savings account, a home valued at \$56,000, and motor vehicles valued at \$2500 and \$3500. Plaintiff states his wife has average monthly expenses totaling \$1398.31, which consist of \$1300 in monthly medical/dental expenses, \$24.34 for life insurance and \$73.97 for dental insurance. Plaintiff states he has total average monthly expenses of \$3614.93, consisting of \$530 rent or home mortgage payment, \$560.64 utilities, \$200 home maintenance, \$1514.29 food, \$150 clothing, \$150 transportation, \$100 recreation, \$170 car insurance, and a visa card payment of \$240. In short, Plaintiff's total monthly household expenses (\$5013.24) are \$3307.59 greater than his total household income (\$1705.65), yet he has at least \$6019.79 in cash and or in a bank account. The undersigned is of the opinion that these sworn facts from Plaintiff's applications to proceed IFP indicate Plaintiff has sufficient assets to pay the filing fee in this case.

RECOMMENDATION

Based on the foregoing, the undersigned recommends that Plaintiff's motions for leave to proceed IFP be denied.

NOTICE OF RIGHT TO APPEAL/OBJECT

Parties have 14 days to serve on the other parties, submit to the assigned District Judge, and file with the clerk of court his written objections to the Report and Recommendation. The objecting party must specifically identify the findings, conclusions, and recommendations to which he objects. The District Court need not consider frivolous, conclusive, or general objections. An opposing party has seven days after being served with objections, to serve and file a response or to notify the District Judge he does not intend to respond to the objections. Except on grounds of plain error, a party cannot attack on appeal any proposed factual finding or legal conclusion accepted by the District Court to which he did not timely file objections. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

Signed, this the 10th day of March, 2017.

/s/ Robert H. Walker
ROBERT H. WALKER
UNITED STATES MAGISTRATE JUDGE